

REMARKS

Claims 1 and 3-14 are presented for consideration, with Claims 1, 8, 12 and 14 being independent.

The independent claims and selected dependent claims have been amended to better set forth Applicant's invention. In addition, Claim 2 has been cancelled.

Initially, Applicant notes with appreciation that Claim 4 is indicated as containing patentable subject matter. Claim 4 remains in dependent form, however, as it is respectfully submitted that parent Claim 1 is allowable in its own right for the reasons discussed below.

Claims 1-3, 5 and 12 stand rejected under 35 U.S.C. §103 as allegedly being obvious over Endo (WO '647) in view of Togano (WO '122). The remaining claims are rejected as allegedly being obvious over Endo and Togano and further in view of Uno '883 (Claim 6), Ikeda '385 (Claim 7), Goden '136 (Claims 8, 9 and 14), Goden and Asano (Claims 10 and 11), or Ikeda '896 (Claim 13).

Without conceding to the propriety of these rejections, Applicant respectfully points out that the Togano (WO '122) citation has an international publication date of November 4, 2004, which is subsequent to the June 8, 2004 filing date of Applicant's Japanese priority document, i.e., JP 2004-170510. A certified English translation of the JP '510 priority document was submitted with the previous Amendment of October 23, 2009.

Accordingly, it is respectfully requested that the Togano citation should be removed as a reference. Without the Togano reference, it is submitted that each of the claim rejections must fail. Thus, reconsideration and withdrawal of the rejections of the claims under 35 U.S.C. §103 is respectfully requested.

Thus, it is submitted that Applicant's invention as set forth in independent Claims 1, 8, 12 and 14 is patentable over the cited art. In addition, dependent Claims 3-7, 9-11 and 13 set forth additional features of Applicant's invention. Independent consideration of the dependent claims is respectfully requested.

In view of the foregoing, reconsideration and allowance of this application is deemed to be in order and such action is respectfully requested.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

/Scott D. Malpede/

Scott D. Malpede
Attorney for Applicant
Registration No. 32,533

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
Facsimile: (212) 218-2200

SDM\rrnm

FCHS_WS 4765312v1